

## SENATE BILL No. 268

### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 25-23.6; IC 25-33-1.

**Synopsis:** Psychological testing. Provides that an individual licensed as a marriage and family therapist, mental health counselor, or clinical social worker may administer or interpret a psychological test under the direction of a licensed psychologist or psychiatrist if the individual meets certain requirements. Requires the social worker, marriage and family therapist, and mental health counselor board to adopt rules concerning psychological tests and testing and provides that the rules, to take effect, must be approved by the state psychological board and the medical licensing board. Provides that rules adopted by the state psychology board after July 1, 2006, to take effect, must be approved by the medical licensing board. Defines "psychological test". Removes: (1) the definition of "restricted psychology test or instrument"; and (2) provisions requiring the state psychological board to establish a list of restricted psychology tests. Repeals the definition of "appraisal".

**Effective:** July 1, 2006.

**Miller**

January 9, 2006, read first time and referred to Committee on Health and Provider Services.

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Introduced

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

## SENATE BILL No. 268

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 25-23.6-1-6 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) "Practice of  
3 clinical social work" means professional services that are designed to  
4 help individuals, marriages, couples, families, groups, and communities  
5 to enhance or restore their capacity for functioning by:

6 (1) assisting in the obtaining or improving of tangible social and  
7 health services;

8 (2) providing psychosocial evaluations using accepted  
9 classifications, including classifications from the American  
10 Psychiatric Association's Diagnostic and Statistical Manual of  
11 Mental Disorders (DSM-IV) as amended and supplemented, but  
12 only to the extent of the ~~counselor's~~ **clinical social worker's**  
13 education, training, experience, and scope of practice as  
14 established by this article;

15 (3) using ~~appraisal~~ **psychological tests, subject to**  
16 **IC 25-23.6-12-1, under the direction of a licensed psychologist**  
17 **or psychiatrist and other** instruments as an aid in treatment

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1 planning that the clinical social worker is qualified to employ by  
 2 virtue of the ~~counselor's~~ **clinical social worker's** education,  
 3 training, and experience; and

4 (4) counseling and psychotherapeutic techniques, casework social  
 5 work advocacy, and treatment in a variety of settings that include  
 6 mental and physical health facilities, child and family service  
 7 agencies, or private practice.

8 (b) The term does not include diagnosis (as defined in  
 9 IC 25-22.5-1-1.1(c)).

10 SECTION 2. IC 25-23.6-1-7 IS AMENDED TO READ AS  
 11 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. (a) "Practice of  
 12 marriage and family therapy" means a specialty that:

13 (1) uses an applied understanding of the dynamics of marital,  
 14 relational, and family systems, and individual psychodynamics;

15 (2) uses counseling and psychotherapeutic techniques;

16 (3) evaluates and treats mental and emotional conditions, resolves  
 17 intrapersonal and interpersonal conflict, and changes perceptions,  
 18 attitudes, and behavior, all within the context of family, marital,  
 19 and relational systems, including the use of accepted evaluation  
 20 classifications, including classifications from the American  
 21 Psychiatric Association's Diagnostic and Statistical Manual of  
 22 Mental Disorders (DSM-IV) as amended and supplemented, but  
 23 only to the extent of the ~~counselor's~~ **marriage and family**  
 24 **therapist's** education, training, experience, and scope of practice  
 25 as established by this article;

26 (4) uses individual, group, couple, sexual, family, and divorce  
 27 therapy; and

28 (5) uses ~~appraisal~~ **psychological tests, subject to**  
 29 **IC 25-23.6-12-1, under the direction of a licensed psychologist**  
 30 **or psychiatrist and other** instruments that evaluate individual,  
 31 marital, relational, communicational, parent and child, and family  
 32 functioning that the marriage and family therapist is qualified to  
 33 employ by virtue of the ~~counselor's~~ **marriage and family**  
 34 **therapist's** education, training, and experience.

35 (b) The term does not include diagnosis (as defined in  
 36 IC 25-22.5-1-1.1(c)).

37 SECTION 3. IC 25-23.6-1-7.5 IS AMENDED TO READ AS  
 38 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7.5. (a) "Practice of  
 39 mental health counseling" means a specialty that:

40 (1) uses counseling and psychotherapeutic techniques based on  
 41 principles, methods, and procedures of counseling that assist  
 42 people in identifying and resolving personal, social, vocational,

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intrapersonal, and interpersonal concerns;

(2) uses counseling to evaluate and treat emotional and mental problems and conditions in a variety of settings, including mental and physical health facilities, child and family service agencies, or private practice, and including the use of accepted evaluation classifications, including classifications from the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM-IV) as amended and supplemented, but only to the extent of the counselor's education, training, experience, and scope of practice as established by this article;

(3) administers and interprets ~~appraisal~~ **psychological tests, subject to IC 25-23.6-12-1, under the direction of a licensed psychologist or psychiatrist and other** instruments that the mental health counselor is qualified to employ by virtue of the counselor's education, training, and experience;

(4) uses information and community resources for personal, social, or vocational development;

(5) uses individual and group techniques for facilitating problem solving, decision making, and behavioral change;

(6) uses functional assessment and vocational planning guidance for persons requesting assistance in adjustment to a disability or disabling condition;

(7) uses referrals for individuals who request counseling services; and

(8) uses and interprets counseling research.

(b) The term does not include diagnosis (as defined in IC 25-22.5-1-1.1(c)).

SECTION 4. IC 25-23.6-1-8.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 8.5. (a) "Psychological test" means a measurement instrument, device, or procedure that is used for the purpose of evaluation, classification, description, treatment planning, or treatment for any of the following:**

**(1) Intelligence.**

**(2) Mental or emotional disorders.**

**(3) Disorders of personality or behavior.**

**(4) Mental and emotional rehabilitative aspects of physical illness, accident, injury, or disability.**

**(b) The term does not include the following:**

**(1) Career and occupational instruments.**

**(2) Adaptive behavioral and symptoms screening checklists.**

**(3) Inventories or interests and preferences that are**

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administered for the purpose of counseling a person to cope with or adapt to changing life situations that are due to problems in living.

(4) Marital, relational, communicational, parent and child, and family systems assessment instruments.

SECTION 5. IC 25-23.6-12 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

**Chapter 12. Psychological Tests**

**Sec. 1.** An individual licensed as a marriage and family therapist, mental health counselor, or clinical social worker under this article may administer or interpret a psychological test under the direction of a licensed psychologist or psychiatrist only if the individual meets all of the following requirements:

(1) The individual has obtained a master's or doctoral degree that qualifies the individual for licensure under this article.

(2) The individual has the education and training necessary to provide competent psychological testing services, including formal graduate or postgraduate degree training in the following:

(A) Individual and group approaches to psychological testing.

(B) Strategies for selecting, administering, and interpreting psychological tests.

(C) Standardized and informal psychological testing procedures and methods.

(D) The statistical, psychometric, and sociometric aspects of testing.

(E) Psychological test construction.

(F) Sampling theory.

(G) The establishment and use of norms in psychological testing, including norm referenced and criterion referenced testing.

(H) Measurement theory, including reliability, validity, and item analysis.

(I) The environmental and contextual aspects of psychological testing.

(J) Computer managed and computer assisted psychological testing.

(K) Individual differences, equity, and bias in assessment, including ethnic, cultural, sexual, gender, and age bias.

(L) General assessment principles associated with

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psychological testing, including recording behavioral observations and interview data.

(3) The individual has formal supervised training and experience in psychological testing. If the individual is acquiring competency in psychological testing subsequent to graduate training, the individual must obtain supervision from:

(A) an individual licensed under this article; or

(B) if the experience is not obtained in Indiana, an individual who has credentials substantially equal to the credentials required under this article.

(4) The individual follows the training guidelines and ethical guidelines regarding psychological testing of the individual's national professional association.

(5) The individual maintains current knowledge in the application, administration, scoring, and interpretation of a psychological test, including each edition or version of the test that the individual uses.

(6) The individual:

(A) consults with; or

(B) refers a client to;

another professional when a psychological test indicates that consultation or referral is necessary for the welfare of the client.

Sec. 2. (a) The board shall adopt rules under IC 4-22-2 to administer and enforce this chapter.

(b) Any rule adopted by the board concerning psychological testing or psychological tests must be approved by:

(1) the state psychology board created by IC 25-33-1-3; and

(2) the medical licensing board of Indiana created by IC 25-22.5-2-1;

before the rule may be implemented and has the force and effect of law.

SECTION 6. IC 25-33-1-1.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1.1. (a) Except as provided in ~~sections 3(g) and 14(c)~~ **section 14(d)** of this chapter, this article exempts a person who does not profess to be a psychologist and who is:

(1) a ~~certified~~ **licensed** marriage and family therapist;

(2) a ~~certified~~ **licensed** social worker or a certified clinical social worker;

(3) a **licensed mental health counselor**;

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~~(3)~~ (4) a minister, priest, rabbi, or other member of the clergy  
 providing pastoral counseling or other assistance;  
~~(4)~~ (5) a licensed or certified health care professional;  
~~(5)~~ (6) a licensed attorney;  
~~(6)~~ (7) a student, an intern, or a trainee pursuing a course of study  
 in psychology in an accredited institution of higher education or  
 training institution if the psychology activities are performed  
 under qualified supervision and constitute a part of the person's  
 supervised course of study or other level of supervision as  
 determined by the board;  
~~(7)~~ (8) an employee of or a volunteer for a nonprofit corporation  
 or an organization performing charitable, religious, or educational  
 functions, providing pastoral counseling or other assistance; or  
~~(8)~~ (9) any other certified or licensed profession.

(b) To be exempt under this article, a person described under  
 subsection (a)(1), (a)(2), ~~(a)(4)~~, (a)(3), (a)(5), (a)(6), or ~~(a)(8)~~ (a)(7)  
 must provide services:

- (1) within the person's scope of practice and training; and
- (2) according to any applicable ethical standards of the person's  
 profession.

SECTION 7. IC 25-33-1-3, AS AMENDED BY P.L.1-2005,  
 SECTION 196, AND AS AMENDED BY P.L.246-2005, SECTION  
 211, IS CORRECTED AND AMENDED TO READ AS FOLLOWS  
 [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) There is created a board to be  
 known as the "state psychology board". The board shall consist of  
 seven (7) members appointed by the governor. Six (6) of the board  
 members shall be licensed under this article and shall have had at least  
 five (5) years of experience as a professional psychologist prior to their  
 appointment. The seventh member shall be appointed to represent the  
 general public, must be a resident of this state, must never have been  
 credentialed in a mental health profession, and must in no way be  
 associated with the profession of psychology other than as a consumer.  
 All members shall be appointed for a term of three (3) years. All  
 members may serve until their successors are duly appointed and  
 qualified. A vacancy occurring on the board shall be filled by the  
 governor by appointment. The member so appointed shall serve for the  
 unexpired term of the vacating member. Each member of the board is  
 entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b).  
 Such a member is also entitled to reimbursement for traveling expenses  
 and other expenses actually incurred in connection with the member's  
 duties, as provided in the state travel policies and procedures  
 established by the *Indiana* department of administration and approved

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1 by the state budget agency.

2 (b) The members of the board shall organize by the election of a  
3 chairman and a vice chairman from among its membership. Such  
4 officers shall serve for a term of one (1) year. The board shall meet at  
5 least once in each calendar year and on such other occasions as it  
6 considers necessary and advisable. A meeting of the board may be  
7 called by its chairman or by a majority of the members on the board.  
8 Four (4) members of the board constitute a quorum. A majority of the  
9 quorum may transact business.

10 (c) The board is empowered to do the following:

11 (1) Establish reasonable application, examination, and renewal  
12 procedures and set fees for licensure under this article. However,  
13 no fee collected under this article shall, under any circumstances,  
14 be refunded.

15 (2) Adopt and enforce rules concerning assessment of costs in  
16 disciplinary proceedings before the board.

17 (3) Establish examinations of applicants for licensure under this  
18 article and issue, deny, suspend, revoke, and renew licenses.

19 (4) Subject to IC 25-1-7, investigate and conduct hearings, upon  
20 complaint against individuals licensed or not licensed under this  
21 article, concerning alleged violation of this article, under  
22 procedures conducted in accordance with IC 4-21.5.

23 (5) Initiate the prosecution and enjoinder of any person violating  
24 this article.

25 (6) Adopt rules which are necessary for the proper performance  
26 of its duties, in accordance with IC 4-22-2.

27 (7) Establish a code of professional conduct.

28 (d) The board shall adopt rules establishing standards for the  
29 competent practice of psychology.

30 (e) All expenses incurred in the administration of this article shall  
31 be paid from the general fund upon appropriation being made in the  
32 manner provided by law for the making of such appropriations.

33 (f) The bureau shall do the following:

34 (1) Carry out the administrative functions of the board.

35 (2) Provide necessary personnel to carry out the duties of this  
36 article.

37 (3) Receive and account for all fees required under this article.

38 (4) Deposit fees collected with the treasurer of ~~the~~ state for  
39 deposit in the state general fund.

40 ~~(g) The board shall adopt rules under IC 4-22-2 to establish;~~  
41 ~~maintain; and update a list of restricted psychology tests and~~  
42 ~~instruments (as defined in section 14(b) of this chapter) containing~~

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those psychology tests and instruments that, because of their design or complexity, create a danger to the public by being improperly administered and interpreted by an individual other than:

- (1) a psychologist licensed under IC 25-33-1-5.1;
- (2) an appropriately trained mental health provider under the direct supervision of a health service provider endorsed under IC 25-33-1-5.1(c);

- (3) a qualified physician licensed under IC 25-22.5;

- (4) a school psychologist who holds a valid:

- (A) license issued by the *professional standards board department of education* under IC 20-28-2; or

- (B) endorsement under *IC 20-20-28-12; IC 20-28-12;*

practicing within the scope of the school psychologist's license or endorsement; or

- (5) a minister, priest, rabbi, or other member of the clergy providing pastoral counseling or other assistance.

(h) The board shall provide to:

- (1) the social work certification and marriage and family therapists credentialing board; and

- (2) any other interested party upon receiving the request of the interested party;

a list of the names of tests and instruments proposed for inclusion on the list of restricted psychological tests and instruments under subsection (g) at least sixty (60) days before publishing notice of intent under IC 4-22-2-23 to adopt a rule regarding restricted tests and instruments.

(i) The social work certification and marriage and family therapists credentialing board and any other interested party that receives the list under subsection (h) may offer written comments or objections regarding a test or instrument proposed for inclusion on the list of restricted tests and instruments within sixty (60) days after receiving the list. If:

- (1) the comments or objections provide evidence indicating that a proposed test or instrument does not meet the criteria established for restricted tests and instruments, the board may delete that test from the list of restricted tests; and

- (2) the board determines that a proposed test or instrument meets the criteria for restriction after reviewing objections to the test or instrument, the board shall respond in writing to justify its decision to include the proposed test or instrument on the list of restricted tests and instruments.

(j) (g) This section may not be interpreted to prevent a licensed or

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certified health care professional from practicing within the scope of the health care professional's:

- (1) license or certification; and
- (2) training or credentials.

SECTION 8. IC 25-33-1-14, AS AMENDED BY P.L.246-2005, SECTION 212, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 14. (a) This section does not apply to an individual who is:

- (1) a member of a teaching faculty, at a public or private institution of higher learning for the purpose of teaching, research, or the exchange or dissemination of information and ideas as an assigned duty of the institution;
- (2) a commissioned psychology officer in the regular United States armed services;
- (3) licensed by the department of education (established by IC 20-19-3-1) as a school psychologist and using the title "school psychologist" or "school psychometrist" as an employee of a school corporation; or
- (4) endorsed as an independent practice school psychologist under IC 20-28-12.

(b) As used in this section, "restricted psychology test or instrument" means a measurement instrument or device used for treatment planning, diagnosing, or classifying intelligence, mental and emotional disorders and disabilities, disorders of personality, or neuropsychological, neurocognitive, or cognitive functioning. The term does not apply to an educational instrument used in a school setting to assess educational progress or an appraisal instrument.

(c) (b) It is unlawful for an individual to:

- (1) claim that the individual is a psychologist; or
- (2) use any title which uses the word "psychologist", "clinical psychologist", "Indiana endorsed school psychologist", or "psychometrist", or any variant of these words, such as "psychology", or "psychological", or "psychologic";

unless that individual holds a valid license issued under this article or a valid endorsement issued under IC 20-28-12.

(d) (c) It is unlawful for any individual, regardless of title, to render, or offer to render, psychological services to individuals, organizations, or to the public, unless the individual holds a valid license issued under this article or a valid endorsement issued under IC 20-28-12 or is exempted under section 1.1 of this chapter.

(e) (d) It is unlawful for an individual, other than:

- (1) a psychologist licensed under IC 25-33-1-5.1;

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(2) an appropriately trained mental health provider under the direct supervision of a health service provider endorsed under IC 25-33-1-5.1(c);

(3) a qualified physician licensed under IC 25-22.5;

(4) a school psychologist who holds a valid:

(A) license issued by the department of education under IC 20-28-2; or

(B) endorsement under IC 20-28-12;

who practices within the scope of the school psychologist's license or endorsement; ~~or~~

(5) a minister, priest, rabbi, or other member of the clergy providing pastoral counseling or other assistance; ~~or~~

**(6) a marriage and family therapist, social worker or clinical social worker, or mental health counselor who:**

**(A) is licensed under IC 25-23.6; and**

**(B) meets the requirements established under IC 25-23.6-12-1 and rules adopted and approved under IC 25-23.6-12-2;**

to administer or interpret a ~~restricted psychology~~ **psychological test or instrument (as defined in IC 25-23.6-1-8.5)** as established by the board under section 3(g) of this chapter in the course of rendering psychological services to individuals, organizations, or to the public.

~~(f)~~ **(e)** This section may not be interpreted to prevent a licensed or certified health care professional from practicing within the scope of the health care professional's:

(1) license or certification; and

(2) training or credentials.

SECTION 9. IC 25-33-1-19 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 19. Any rule adopted by the board under this article after July 1, 2006, must be approved by the medical licensing board of Indiana created by IC 25-22.5-2-1 before the rule may be implemented and has the force and effect of law.**

SECTION 10. IC 25-23.6-1-1.5 IS REPEALED [EFFECTIVE JULY 1, 2006].

SECTION 11. [EFFECTIVE JULY 1, 2006] **(a) The social worker, marriage and family therapist, and mental health counselor board established by IC 25-23.6-2-1 shall adopt rules to implement IC 25-23.6-12, as added by this act.**

**(b) The rules adopted under subsection (a) must require the following:**

**(1) That an individual who administers and interprets a**

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1 psychological test as defined in IC 25-23.6-1-8.5, as added by  
 2 this act, must have obtained at least forty-five (45) total  
 3 instructional hours of graduate and postgraduate degree  
 4 course work in psychopathology, abnormal psychology, and  
 5 psychodiagnosis.

6 (2) That an individual who administers and interprets an  
 7 intelligence test must have obtained at least forty-five (45)  
 8 instructional hours of graduate or postgraduate degree course  
 9 work in the area of intelligence testing.

10 (3) That an individual who administers and interprets a  
 11 personality test must have obtained at least forty-five (45)  
 12 instructional hours of graduate or postgraduate degree course  
 13 work in the area of personality testing.

14 (c) A rule adopted under this SECTION must be approved by:

15 (1) the state psychology board created by IC 25-33-1-3; and

16 (2) the medical licensing board of Indiana created by  
 17 IC 25-22.5-2-1;

18 before the rule may be implemented and has the force and effect of  
 19 law.

20 (d) This SECTION expires July 1, 2007.

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